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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,996	02/20/2002	Thomas Huber	043978-014000	9681

22204 7590 10/24/2007  
NIXON PEABODY, LLP  
401 9TH STREET, NW  
SUITE 900  
WASHINGTON, DC 20004-2128

EXAMINER
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BELIVEAU, SCOTT E

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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10/24/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/080,996	Applicant(s) HUBER ET AL.	
	Examiner Scott Beliveau	Art Unit 2623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 8-22 and 24-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 23 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 21 June 2007 has been entered.

### ***Election/Restrictions***

2. Newly submitted claims 24-26 are further limiting of an invention that was previously withdrawn without traverse in the reply of 01 May 2006. Accordingly, claims 24-26 are similarly withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Priority***

3. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows:

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the

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later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 60,270,419, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. Claims 1 and 3 respectively require that the 'said broadcaster receiv[es] requests from at least one of said viewers for at least one version [or at least two versions] of said program' whereupon the broadcaster makes a decision as to what to transmit based upon the viewer requests. Claim 23 contains similar language wherein the 'broadcaster makes a decision whether to broadcast said requested at least one available version of said plurality of available versions based upon said one or more requests and based on a predetermine criteria'. The earlier filling is silent with respect to the broadcaster making decisions as to what versions of programs to supply based upon subscriber requests. Accordingly, the application shall be examined based upon its filling date of 20 February 2002.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-7, 23, and 27 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 102***

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by Matthews, III (US Pat No. 5,600,368).

In consideration of claim 23, the Matthews, III reference discloses a “method of broadcasting of a program containing a plurality of versions from a broadcaster to viewers” (Figure 7). The method comprises “broadcasting information from said broadcaster” [120] “to said viewers that said plurality of versions of said program are available to said viewers” in conjunction with the ability to view a particular program from various camera angles (Col 6, Lines 30-56). The “broadcaster” [120] “receives one or more requests from at least one of said viewers for at least one version of said plurality of versions of said program . . . mak[es] a decision to broadcast said at least one version of said plurality of versions of said program based upon said one or more request and based on a predetermined criteria” (i.e. request for viewing a particular angle – do I have a camera/video corresponding to the requested angle provide to the subscriber) “and . . . broadcast[s] said at least one version of said plurality of versions of said program to said at least one of said viewers if said one or more requests meets said predetermined criteria” in accordance with their request to view an available particular viewpoint of the broadcast program (Figures 7-8; Col 7, Lines 33-54).

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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-5 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III (US Pat No. 5,600,368) in view of Kahn (US Pat No. 7,100,184).

In consideration of claim 1, the Matthews, III reference discloses a "method of broadcasting of a program containing a plurality of versions from a broadcaster to viewers" (Figure 7). The "broadcaster" [120] "receives one or more requests from at least one of said viewers for at least one version of said plurality of versions of said program . . . mak[es] a decision to broadcast said at least one version of said plurality of versions of said program based upon said one or more requests; and . . . broadcast[s] said at least one version of said plurality of versions of said program to said at least one of said viewers" in accordance with their request to view a particular viewpoint of the broadcast program (Figures 7-8; Col 7, Lines 33-54).

The reference, however, is silent with respect to further 'broadcasting program information' that provides an indication of available programming prior to enabling the subscriber to request viewing of any particular version of the available programming. In an analogous art pertaining to interactive video distribution systems, the Kahn reference discloses the particular distribution and presentation of an electronic program guide that assists the user in learning what programming is available on different channels at different times (Col 1, Lines 13-28). This information is displayed at startup (Col 5, Lines 5-7) and

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includes listings for sporting events such as baseball (Figure 3) (-- which as evidenced by Matthews, III may consist of multiple camera viewpoints). Consequently, Kahn provides evidence in regards to “broadcasting program information from said broadcaster to said viewers” (Col 2, Lines 58-67) “indicating [programs] are available to said viewers, wherein the indication of [programming] is displayed to said viewers before any of said viewers is enabled to request [programming]” (Col 5, Lines 5-7). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to initially provide a user interface for a programming event (ex. multiple viewpoint baseball game) for the purpose of providing a means for rapidly accessing program guide information so as to quickly locate programming of interest (Kahn: Col 1, Lines 61-62).

Claim 2 is rejected wherein the method further comprises “said at least one of said viewers transmitting to said broadcaster a request for said at least one version of said plurality of versions of said program” (Matthews, III: Col 7, Lines 10-15).

In consideration of claim 3, the Matthews, III reference discloses a “method of broadcasting of a program containing a plurality of versions from a broadcaster to viewers” (Figure 7). The “broadcaster” [120] “receives requests from a plurality said viewers” (Col 6, Lines 66-67) “for at least two version of said plurality of versions of said program” associated with the plurality of available camera angles, “mak[es] a decision to broadcast said at least two versions of said plurality of versions of said program based upon said requests; and . . . broadcast[s] said at least two versions of said plurality of versions of said program to said viewers” in accordance with their requests to view a particular viewpoint with particular display options for the broadcast program (Figures 7-8; Col 7, Lines 33-54).

The reference, however, is silent with respect to further 'broadcasting program information' that provides an indication of available programming prior to enabling the subscriber to request viewing of any particular version of the available programming. In an analogous art pertaining to interactive video distribution systems, the Kahn reference discloses the particular distribution and presentation of an electronic program guide that assists the user in learning what programming is available on different channels at different times (Col 1, Lines 13-28). This information is displayed at startup (Col 5, Lines 5-7) and includes listings for sporting events such as baseball (Figure 3) (-- which as evidenced by Matthews, III may consist of multiple camera viewpoints). Consequently, Kahn provides evidence in regards to "broadcasting program information from said broadcaster to said viewers" (Col 2, Lines 58-67) "indicating [programs] are available to said viewers, wherein the indication of [programming] is displayed to said viewers before any of said viewers is enabled to request [programming]" (Col 5, Lines 5-7). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to initially provide a user interface for a programming event (ex. multiple viewpoint baseball game) for the purpose of providing a means for rapidly accessing program guide information so as to quickly locate programming of interest (Kahn: Col 1, Lines 61-62).

Claim 4 is rejected wherein the "viewers receiv[e] a broadcast comprising said at least two versions of said program" corresponding to the different requested camera angles and various display options, "select one version from said at least two versions of said plurality of versions of said program using viewer preference information" associated with the users



desire/request to use a particular viewpoint” and “displaying said one version” in accordance with the user requests (Matthews, III: Col 6, Line 23 – Col 7, Line 54).

Claim 5 is rejected wherein the “viewer preference information is stored in a receiving unit” [24] for eventual transmission to the broadcaster [120] (Matthews, III: Col 7, Lines 10-15).

Claim 27 is rejected wherein the “indication of said plurality of versions is displayed to said viewers as a menu of said available versions” (Kahn: Col 2, Lines 65-67)

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III (US Pat No. 5,600,368), in view of Kahn (US Pat No. 7,100,184), and in further view of Butler et al. (US Pub No. 2002/0007493 A1).

In consideration of claims 6 and 7, the Matthews, III reference is silent with respect to how it necessarily “obtains content information” in association with the provision of viewing options (Col 6, Lines 30-43). In an analogous art pertaining to the field of broadcast video programming, the Butler et al. (US Pub No. 2002/0007493 A1) reference discloses a method for “obtaining content information contained” in either “a blanking interval of said program” or “a packet of digital information comprising said program” (Figure 5; Para. [0015] – [0016])

and [0054] – [0058]). Accordingly, it would have been obvious to one having ordinary skill in the art to modify Matthews, III so as to “obtain content information contained” in either “a blanking interval of said program” or “a packet of digital information comprising said program” for the purpose of utilizing an improved means for providing ancillary data along with video broadcasts along with a scheme for overlaying the contents on the primary video display in an interactive television system (Butler et al.: Para. [0008]).

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Rodriguez et al. (US Pub No. 2003/0002862 A1) reference disclose a system and method for bandwidth allocation for multiple versions of a video program.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343.

The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

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applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Scott Beliveau  
Primary Examiner  
Art Unit 2623



SEB  
October 19, 2007